

Bureau of Indian Affairs, Interior

§ 36.71

contract schools up to the level required by the applicable standards established under section 1121 of Pub. L. 95-561, 25 U.S.C. 2001.

§ 36.61 Waivers and revisions.

(a) The tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standard(s) established in this part, where the standard(s) is deemed by such body to be inappropriate and shall also have the authority to revise such standard(s) to take into account the specific needs of the tribe's children. This includes Bureau-operated schools. When the tribal governing body, or local school board if so designated by the tribal governing body, waives the standard(s) or part thereof, it shall within 60 days submit revised standard(s) to the Assistant Secretary for approval. In the interim between the waiver of the standard(s) and the approval of the revised standard(s), the standards of this part or minimum state standards shall apply to the affected school(s). In the notice of the waiver, the tribal governing body or its designee shall state whether the standards in this part or the minimum state standards apply to the affected school(s) for such interim period. The Assistant Secretary shall respond to the revised standard(s) within 45 days of receipt. Revised standard(s) shall be established by the Assistant Secretary unless specifically rejected by the Assistant Secretary for good cause and in writing. The written notice of rejection shall be sent to the affected tribe(s) and local school board. Such rejection shall be final. All revised standards shall be submitted to the Assistant Secretary in writing and will adhere to the following procedure:

(1) Waivers and revisions shall be submitted by November 15 each school year to accompany the school's annual standards compliance report as required by § 36.60(b).

(2) The section or part of the standard to be waived must be specified, and the extent to which it is to be deviated from shall be described.

(3) A justification shall be included with a revised standard, which explains

why the alternative standard is considered necessary.

(4) Measurable objectives of the alternative standard(s), the method of achieving the alternative standard(s), and the estimated cost of implementation must be stated.

(b) The Assistant Secretary shall assist the school board of an Indian-controlled contract school in the implementation of the standards established under this part if the school board requests that these standards, in part or in whole, be implemented. At the request of an Indian-controlled contract school board, the Assistant Secretary shall provide alternative or modified standards to those established in this part to take into account the needs of the Indian children and the Indian-controlled contract school.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61766, Dec. 1, 1994]

Subpart H—National Dormitory Criteria

§ 36.70 Scope of subpart.

This subpart contains the criteria and mandatory requirements for all dormitories. The individual employee responsibilities, based on the terminology used to designate specific employee positions and their assigned responsibilities, may vary depending upon whether the dormitory is a direct Bureau operation or contract operation.

§ 36.71 General provisions.

(a) The Homeliving Specialist is the administrative head of the dormitory who shall have sufficient autonomy and authority to ensure the successful functioning of all phases of the dormitory program, and, in dormitories attached to a school, shall report to the school supervisor.

(b) In situations where a Bureau-funded dormitory is maintained, operated, and administered separately from the academic program, this dormitory will ensure access to or provide a guidance program equal to the standards as those under § 36.42 of this part.

(c) Students who qualify for residential services under the Exceptional